

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
Assessment and Collection)	MD Docket No. 01-76
Of Regulatory Fees for)	
Fiscal Year 2001)	

OPPOSITION OF SPRINT CORPORATION

Sprint Corporation hereby respectfully submits its opposition to the Petition for Reconsideration filed by Bennet and Bennet, PLLC, on behalf of its LMDS clients, in the above-captioned proceeding.¹ Sprint objects to Bennet and Bennet's attempt to reclassify LMDS service to the Microwave Regulatory Fee category and urges the Commission to deny Bennet and Bennet's Petition for Reconsideration.

Bennet and Bennet argues that LMDS service should be reclassified from the Multipoint Distribution Service ("MDS") fee category to the microwave service category for assessing regulatory fees. This argument was already raised by WinStar in comments on the Commission's NPRM in this proceeding and was properly rejected by the Commission. While Sprint understands that the LMDS operators that Bennet and Bennet represents would, like Winstar, prefer that LMDS interests be reclassified to the

Microwave service category and thereby have their regulatory fees reduced from \$450 to \$5, such reclassification would result in a substantial increase in the regulatory burden left to other MDS services.

The crux of Bennet and Bennet's argument favoring the change is that "the heavily encumbered nature of MDS and the requirements to individually license each hub and main transmit site require extensive agency review and action."² Bennet and Bennet methodically parses out each licensing activity associated with MDS licensing, arguing that this represents a greater burden on the Commission than does the licensing activity associated with LMDS service and that the Commission should therefore reduce the LMDS regulatory fee. Without addressing whether or not LMDS requires more or less licensing activity than MMDS, this argument fails for the simple reason that licensing activity is not included in the Regulatory Fee calculation. Attachment G of the Commission's Order describes the Commission's license-related activity and clearly states: "Cost of this activity is not included in determining regulatory fees."³

Bennet and Bennet's further argument that the LMDS fee should be reduced because the "decision to almost double the regulatory fee for LMDS does not correlate with an almost doubling of regulatory action relating to LMDS over the past year" does not take into account the fact that in 2000, the LMDS administrative burden was higher and was supported by fee contributions paid by other MDS services.

Like Winstar, Bennet and Bennet asserts that MDS and LMDS service are "only marginally similar." Sprint agrees with the Commission that the two services are

¹ *In re: Assessment and Collection of Regulatory Fees for Fiscal Year 2001, Report and Order*, MD Docket No. 01-76, FCC 01-196 (rel. July 2, 2001) ("Report and Order").

² Petition for Reconsideration at 4.

³ *Id.* at 71.

operationally similar. They provide substantially the same services—high-speed wireless voice and data services—although LMDS focuses on large business users while MMDS focuses on residential consumers. Thus, while Bennet and Bennet argues that “LMDS is operationally, competitively, and legally similar to other fixed microwave services,”⁴ it remains clear, that LMDS is in fact operationally, competitively, and legally similar to MDS. The Petition for Reconsideration should be denied.

Respectfully submitted,

Sprint Corporation

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⁴ Petition for Reconsideration at 5.